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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,080

09/29/2005

Hakan Engqvist

1510-1098

2891

466

7590

11/09/2007

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EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

11/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,080	Applicant(s) ENGQVIST ET AL.	
	Examiner C. Melissa Koslow	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 9-23 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/05, 6/07</u> . | 6) <input type="checkbox"/> Other: ____. |

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference number 4 in figure 2. There is no indication that reference number 4 in figure 2 has the same meaning as reference number 4 in figure 1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities:

The specification teaches the binder phase consists of a cement-based system and then state the cement-based system comprises cements selected from the group consisting of

aluminate, silicates, phosphates, sulfates and combinations thereof. The actual composition of the binder phase is unclear since applicants first defines it using closed language (consists) and then defines it using open language "comprises". Appropriate correction is required.

Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

This claim does not further limit claim 13 in that it does not provide any additional process steps and it recited the material has the structure already given in claim 13.

Claims 9-11, 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification teaches the powdered material is made of granules of a binder phase and that the powder or granules can be mixed with a non-compacted powder on page 6, lines 10-30. Claims 9-11 define the powder as being a mixture of granules and non-compacted powder. This discrepancy as to the definition of "powdered material" needs to be clarified. Page 7, lines 17-21 and page 8, lines 30-32 teach the granules or powdered material is mixed with a binder reactive liquid and that this suspension or paste is injected or squirted into a cavity to be filled with the cement. Claim 18 teaches distributing the liquid in the granules, which is different from the disclosed mixing step of the specification. Claims 18 and 19 teach applying or packing the

paste in a space to be filled with the cement, which is different from the disclosed injecting or squirting step of the specification. These discrepancies between the claimed and disclosed processes need to be clarified.

Claims 1, 5, 9-11 and 13-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite since it is unclear to what "it" refers, the powdered material or the binder phase. It is noted that the specification teaches the powdered material is in "the form of granules.

Claim 5 is indefinite since the actual composition of the binder phase is unclear since claim 1 defines the binder phase using closed language (consists) and then defines it using open language "comprises" in this claim.

Claims 9-11 are indefinite since they create confusion as to the definition of the powdered material. These claims teach the powdered material comprising the granules and up to 50% of a non-granulated or compacted powder, but the specification teaches the powdered material are the granules. Thus it is unclear what is applicants' definite of "powder material".

Claims 13-19 are indefinite as to what is the method being claimed. The preamble in claim 13 of "method in connection with the manufacturing of a ceramic material" does not clearly indicate what is the actual method. Claims 13 and 14 are directed to the method of making the granules, claim 15 is directed to adding a powder with the granules. Claim 16 teaches a process of making a raw material. Claim 17 teaches suspending the granules in an excess of reacting liquid, draining the excess liquid and shaping the resulting paste by compaction. Claims

18 and 19 teach mixing the granules with a reacting liquid and applying the resulting paste to a area that is to be filled with the ceramic material. The processes of claims 15-19 are different methods than that implied by claims 13 and 14.

Claim 20 is indefinite since it is unclear how it further limits claim 13 since the only method in claim 13 is how to form the granules. There is no disclosure of reacting the granules with the mentioned liquid. It is wondered if claim 20 should depend from claim 17 or 18.

Claims 21-23 are indefinite since it is unclear if the chambers contain the liquid and granules or not.

The narrow phrase or number range after the term “preferably” and “even more preferred” have been given no patentable weight. This is because the phrase or number range after the terms are examples of the broad term or range and claims are given their broadest interpretation. Applicants may add dependent or independent claims directed to the above narrow phrase or range.

The Examiner is interpreting claims 21-23 as not including the granules and liquid.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 3,655,035.

These references teach devices that have the claimed structure and where at least one of the chambers is composed of a material that allows for processing through the chamber. The references teach the claimed device.

Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 4,973,168.

This reference teaches a device comprising a first chamber for holding cement powder under vacuum pressure, an ampoule for holding a liquid, which is not under vacuum and thus has a higher pressure than the first chamber and an openable seal between the chamber and ampoule. The reference teaches the claimed device.

Claim 12 is allowed.

Claims 2-4 and 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 5 and 9-11 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

There is no teaching or suggestion in the cited art of record of granules comprising a cement where the granules have a degree of compaction above 55% and a mean size of 30-350 microns. The art teaches granules comprising a cement where the granules have a degree of compaction above 55% and a mean size of 20 microns or less. There is no suggestion to use larger sized granules.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

Application/Control Number:
10/518,080
Art Unit: 1793

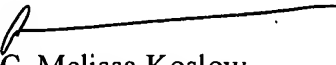
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cmk
November 8, 2007


C. Melissa Koslow
Primary Examiner
Art Unit 1793